
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

DANIEL THOMASON SMITH,

Plaintiff,

*versus*UNITED STATES OF AMERICA, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:18-CV-635

**MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Daniel Thomason Smith, a prisoner confined at the Federal Correctional Institution in Beaumont, Texas, proceeding *pro se* and *in forma pauperis*, filed this civil action pursuant to the Federal Tort Claims Act (FTCA), against the United States of America, President Donald Trump, Vice President Mike Pence, all United States Senators, Acting Attorney General Matthew Whitaker, Secretary of State Mike Pompeo, the Secretary of State of Texas, Governor Greg Abbott, United States District Judge Alia Moses, United States District Judge Orlando Garcia, United States Attorney Robert Pitman, United States Attorney Richard L. Durbin, Jr., Assistant United States Attorney Rex Beasley, Assistant United States Attorney Gregory Surovic, United States Magistrate Judge Henry J. Bemporad, and Michael Clark Gross.

The court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. Because the United States of America is the only proper defendant in an FTCA action, the magistrate judge recommended dismissing the claims against the other

defendants for want of jurisdiction. *Galvin v. Occupational Safety & Health Admin.*, 860 F.2d 181, 183 (5th Cir. 1988).

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. The claims against the individual defendants must be dismissed for want of jurisdiction.

ORDER

Accordingly, plaintiff's objections (#12) are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge (#8) is **ADOPTED**. President Donald Trump, Vice President Mike Pence, all United States Senators, Acting Attorney General Matthew Whitaker, Secretary of State Mike Pompeo, the Secretary of State of Texas, Governor Greg Abbott, United States District Judge Alia Moses, United States District Judge Orlando Garcia, United States Attorney Robert Pitman, United States Attorney Richard L. Durbin, Jr., Assistant United States Attorney Rex Beasley, Assistant United States Attorney Gregory Surovic, United States Magistrate Judge Henry J. Bemporad, and Michael Clark Gross are **DISMISSED** from this action.

SIGNED at Beaumont, Texas, this 19th day of January, 2021.



MARCIA A. CRONE

2 UNITED STATES DISTRICT JUDGE